

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKHernandez, Victor

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

New York City Department of
Corrections.
Captain O'neal
Corrections Officer Powell
Corrections Officer ~~Asses~~ Mance

COMPLAINT

under the
Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)Jury Trial: ☒ Yes ☐ No
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)



I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name

Victor Hernandez

ID #

349 14 00129

Current Institution

G.R.VC

Address

09-09 Hazen StreetEast Elmhurst, N.Y. 11370

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name

New York City Department of Corrections

Shield #

Where Currently Employed

13-18 Hazen Street Legal Division

Address

East Elmhurst, NY 1137060 Hudson Street 6th Floor1 New York, NY 10013

Defendant No. 2 Name Correction Officer Powell Shield # _____
 Where Currently Employed A.M.K.C.
 Address 18-18 Hazen Street
East Elmhurst, NY 11370

Defendant No. 3 Name Correction Officer Mance Shield # _____
 Where Currently Employed A.M.K.C.
 Address 18-18 Hazen Street
East Elmhurst, NY 11370

Defendant No. 4 Name Captain O'NEAL Shield # _____
 Where Currently Employed 18-18 Hazen Street
 Address 69 East Elmhurst, NY 11370

Defendant No. 5 Name Correction Officer John Doe Shield # _____
 Where Currently Employed I.R.V.C.
 Address 18-18 Hazen Street
East Elmhurst, NY 11370

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur?
A.M.K.C. Rikers Island
- B. Where in the institution did the events giving rise to your claim(s) occur?
In 2 Lower A-side inside the Vestibule
Corridor.
- C. What date and approximate time did the events giving rise to your claim(s) occur?
August 26, 2012 at 9:40 PM.

at 9:45

D. Facts: On August 26, 2012, I was beaten up by Correction Officers Martinez and Powell along with their batons to my face. They told me to turn around and as soon as I turned around they started lunging at me with their billy club causing me to bleed through my nose heavily.

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

I didn't do anything and they beat me up for no reason in front of the entire housing area. I sustained fractures to my nose and ended up with a black eye.

They rushed me to Elmhurst Hospital where they started me on IV fluid and pain killers. When I was released they sent me to the box for 90 days and it wasn't even my fault. Now I am seeking justice. Also I would like to mention that the probe team officer John Doe twisted my hand so bad after the incident that my wrist hurt for a month and I could not write for a month.

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

Black Eye, Head Contusion and Fractures to my nose. They sent me to Elmhurst Hospital in Queens where they did CAT scans and gave me pain killer Morphine.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Rikers Island A.M.K.C 18-18 Hacer Street

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☐ No ☒ Do Not Know ☐

If YES, which claim(s)? _____

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☐

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

A.M.K.C and Board of Corrections

1. Which claim(s) in this complaint did you grieve? My injuries

Caused by Police Brutality

2. What was the result, if any? Nothing. Department of Corrections gets points for preventing on the weak.

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. Grievance, Longhaker claim,

Board of Corrections and Appealed to the Warden and even wrote to US Senators and No one did anything. Not lift a voice or finger for me. Also Article 78 was Filed and lost.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: _____

2. If you did not file a grievance but informed any officials of your claim, state who you informed, _____

when and how, and their response, if any: _____

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. _____

I exhausted all of them first time!

I also wrote to former United States Senator Hillary Clinton. I filed a grievance, I appealed it to Grievance Committee, I filed a claim, I grieved B.O.L.'s and Submitted Article 78 all four steps were exhausted.

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). *I am seeking \$100,000,000.*

One hundred Million dollars for mental anguish, Police Brutality and Broken bones and a broken nose to my face. My face was scarred with my nose looking crooked for life and swelling to my nose and trouble breathing for the rest of my life Due to a Crooked Nose.

I Can no longer Breathe properly as a result of my nose being broken by Department of Correction Officers Powell and Anstey. They beat me up for no reason. I recommend that their jobs be terminated so they never have to beat innocent inmates up. I have hospital records from Elmhurst and Bellview Hospital that proves after incident that I have trouble breathing.

VI. Previous lawsuits:

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes _____ No ☒

On
these
claims

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?
Yes ____ No 1

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 6 day of July, 2014

Signature of Plaintiff

Inmate Number

Institution Address

Vito Hernandez
349-14-00129
09-09 Hazen Street
East Elmhurst, N.Y 11370

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 6 day of July, 2014 I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Vito Hernandez